IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 256 (S/B) of 2006

Swatantra Pal Singh Sirohi s/o late Sri Harpal Singh
R/o Bazpur Distilleries Quarter,
Bazpur, District Udham Singh Nagar …….. Petitioner

Versus

1. State of Uttaranchal through Secretary (Sugar Cane and Sugar Industries Department) Civil Secretariat, Dehradun.
2. Mukhya Karyakari Adhikari, Uttarnchal Sugars (Undertaking of State of Uttaranchal) 53 Subhash Road, District Dehradun.
3. The Bazpur Cooperative Chini Mill Ltd., Bazpur through its General Manager.
4. Sri Vineet Joshi holding the Charge of the post of Chief Engineer, the Bazpur Cooperative Chini Mill Ltd. Bazpur.
5. Vinod Sharma, presently posted as Mukhya Karyakari Adhikari Uttaranchal Sugars (Undertaking of State of Uttaranchal) 53 Subhash Road, District Dehradun. …… Respondents

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Sri Paresh Tripathi, Advocate for the petitioner.
Sri N.B. Tiwari, Addl. Advocate General/Chief Standing Counsel for respondents 1 & 2.
Sri Rajeev Mohan Birkhani, Advocate for respondent no. 3.
None for respondent no. 4.
Sri T.A. Khan, Advocate for respondent no. 5.

JUDGMENT

Coram: Hon'ble Rajeev Gupta, C.J.
Hon'ble Rajesh Tandon, J.

RAJEEV GUPTA, C. J. (Oral)

The petitioner has filed this writ petition for the following reliefs:

"I. Issue a writ, order or direction in the nature of certiorari quashing the impugned order dated 03.08.2006 passed by respondent no. 2 as regards the attachment of the petitioner in Bazpur distillery unit, contained as Annexure No. 1 to the writ petition, after summoning the original of the same from the respondents.

II. Issue a writ, order or direction in the nature of mandamus commanding the respondent no. 2 to post the petitioner in the Bazpur Cooperative Chini Mill or in any other Cooperative Chini Mill in the State of Uttaranchal.

III. Issue a writ, order or direction which this Hon'ble Court may deem fit and proper under the circumstances of the case may kindly be passed.

IV. Award the cost of the petition."

2. The petitioner was appointed as Deputy Chief Engineer by U.P. Cooperative Sugar Federation Ltd. in 1982. After his allocation to the State of Uttaranchal, the petitioner was promoted to the post of Chief Engineer in 2001. The petitioner was transferred from Nadehi Sugar Mill to Sitarganj Sugar Mill in October 2003. After about three years, the petitioner was again transferred from Sitarganj Sugar Mill to Gadarpur Sugar Mill vide order dated 17.06.2006. The petitioner was attached to 'Distillery Unit' after his transfer to Sugar Mill Bazpur vide impugned order dated 03.08.2006.

3. The petitioner, in substance, is challenging the impugned order dated 03.08.2006 on the ground that his attachment to 'Distillery Unit' of Bazpur Sugar Mill amounts to his demotion as there was no sanctioned post of Chief Engineer in the 'Distillery Unit' of Bazpur Sugar Mill and respondent No. 4 who is officiating as Chief Engineer is only an Assistant Engineer.

4. The impugned order dated 03.08.2006 (Annexure 1) reads as follows:

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Jh ,l0 ih0 ,l0 fljksgh] eq[; vfHk;ark] fn fdlku lgdkjh phuh feYl fy0] xnjiqj dks ;Fkkfu;e ;k=k HkRrk vkfn ns; gksxkA ;g vkns'k rRdky izHkko ls ekus tk;saxsA

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1- Jh ,l0 ih0 ,l0 fljksgh] eq[; vfHk;ark] xnjiqj dks lwpukFkZA

2- iz/kku izcU/kd] fn fdlku lgdkjh phuh feYl fy0 xnjiqj dks lwpukFkZA

3- lacaf/kr deZpkjh@ vf/kdkjh dh O;fDrxr i=koyh A

4- xkMZ QkbZyA

5- iz/kku izca/kd] phuh fey cktiqj dks lwpukFkZA

g0 vifBr 03-08-2006
¼fouksn ‘kekZ½
eq[; dk;Zdkjh vf/kdkjh”

5. From the impugned order, it is apparent that though the petitioner after his transfer to Bazpur Sugar Mill has been attached to Bazpur distillery, the impugned order clearly indicates that the petitioner is to function as Chief Engineer and he would be entitled to all the allowances as Chief Engineer. It is also not in dispute that the petitioner in spite of his attachment to the Bazpur distillery is drawing the same salary, which he was drawing before his attachment.

6. Counter affidavit has been filed on behalf of respondent No. 3 Bazpur Cooperative Sugar Mill Ltd. Para 4 of the said counter affidavit reads as follows:

> “4. That content of para 2 of the writ petition are not admitted as stated. It is incorrect to say that the attachment of the petitioner in distillery has been made only with a view to allow the respondent no. 4 to officiate as Chief Engineer of respondent no. 3. The true fact is that the petitioner has been posted as Chief Engineer in Distillery unit by the answering respondent no. 2 by order dated 03.08.2006. It is relevant to mention here that petitioner has been placed under the direct control of the General Manager of the answering respondent. As such, there is no question arises of the

> demotion as well as humiliation of the petitioner; the order passed by the respondent no. 4 is due to administrative exigency."

7. Thus, there is no substance in the petitioner's grievance that by his attachment to Bazpur distillery, he has been demoted.

8. Whether respondent no. 4 – Vineet Joshi should be allowed to officiate as Chief Engineer of the Bazpur Cooperative Sugar Mill Ltd. should not be the concern of the petitioner as it is the lookout of the management of the Mill as to who should be allowed to officiate. It is further apparent from para 8 of the counter affidavit of respondent No. 3 that respondent No. 4 has been officiating for the last two years i.e. from much before the petitioner's transfer and attachment to 'Distillery Unit'.

9. It is further apparent from the petitioner's own documents (Annexure Nos. 5 and 6) that the petitioner has taken over as 'Chief Engineer'. It is also not in dispute that the petitioner is drawing the same salary and allowances as he was drawing as 'Chief Engineer' before his attachment to 'Distillery Unit' vide impugned order dated 03.08.2006. Therefore, the petitioner's submission about the non-availability of the post of 'Chief Engineer' is not of much consequence.

10. The petitioner's apprehension that he would be required to work under his junior is wholly misconceived as it is apparent from order dated 10.08.2006 (Annexure No. 5) that the petitioner was to work under the direct control of the 'General Manager'.

11. For the foregoing reasons, the writ petition is liable to be dismissed and is hereby dismissed.

12. No order as to costs.

(Rajesh Tandon, J.) 22.09.2006

(Rajeev Gupta, C. J.) 22.09.2006

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